

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE
WESTERN DIVISION**

UNITED STATES OF AMERICA,

Plaintiff,

vs.

JAMES LITTON,

Defendant.

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CR. NO. 2:19-cr-20083-SHL

MOTION IN LIMINE #1

COMES NOW, Claiborne H. Ferguson, counsel for Defendant, and hereby files this Motion in Limine with argument for a pretrial ruling on the admissibility of evidence.

Evidence Sough Excluded: It is expected during the testimony of Valarie Kershaw-Berry that she was “told by staff at [Get Well Family Medicine where she and James Litton worked] that pharmacies called and said they wouldn’t fill any prescriptions written be Litton.” Also, she may testify as to what other patients told her concerning allegations of Litton taking their pills during pill counts.

Grounds for Exclusion: The evidence is rank hearsay with no exceptions. If fact, it might be double-hearsay. **Fed. R. Evid. 801, et seq.**; *United States v. Nelson*, 725 F.3d 615 (6th Cir. 2013) (statements from anonymous callers was hearsay and inadmissible). Furthermore, assuming the calls were really made, the statement lacks the context or meaning as the reason for the refusal to fill prescriptions is not given which invites speculation and limits and finding of

relevance. **Id. at 620.** Furthermore, without names and dates of the conversation, there is no way to determine if the statements, if made, are trustworthy and related in time to the charges pending trial and as such can cause unfair prejudice, confuse the issue, and mislead the jury.

Fed. R. Evid. 403; *U.S. v. Stout*, 509 F.3d 796 (6th Cir. 2007).

Wherefore, Defendant asks the Court to exclude or limit the use of the forgoing evidence.

Respectfully submitted,

The
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CERTIFICATE OF SERVICE

I, the undersigned, do hereby certify that a true and exact copy of the foregoing document has been served upon all concerned parties, via the Court's electronic filing system, this the 5th day of April 2021.

s/Claiborne H. Ferguson
CLAIBORNE H. FERGUSON

